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June 1, 2023

VIA EMAIL

Honorable Marian W. Payson
United States Magistrate Judge
100 State Street
Rochester, New York 14614
Email: payson@nywd.uscourts.gov

Re: Mary Van Brunt-Piehl v. Absolute Software, Inc., Absolute Software Corporation, Geoff Haydon, Thomas Kenny and Todd Awtry
16 Civ. 6313 (EAW) (MWP)

Dear Judge Payson,

We write in connection with Your Honor's May 8, 2023 Order directing that the parties be present in person for the mediation scheduled for the afternoon of July 18, 2023. Defendants request that Peter Chess, the representative of Absolute Software, Inc. and Absolute Software Corporation, be permitted to participate remotely in the mediation. Mr. Chess works and resides in California. There are no direct flights from San Francisco to Rochester, so travel to Rochester to participate in the mediation will consume at least three full business days. In light of these circumstances, we ask that he be permitted to participate remotely. He will be available from 1:30 pm until the conclusion of the mediation on July 18th and will have the necessary settlement authority.

As for the three individual defendants, the jury determined there was no liability against them. Furthermore, each of them are former employees of Absolute Software and have indemnification agreements pursuant to which they will not contribute to any settlement payment and they previously provided Absolute Software with settlement authority on their behalf. In addition, in person presence at the mediation would impose a hardship on them as Messrs. Haydon and Awtry live in Georgia and Mr. Kenny lives in Montana. For these reasons, we also request that the three individuals not be required to be present in person in Rochester for the mediation.

We conferred with Plaintiff's counsel in an effort to reach an agreement on Mr. Chess's remote attendance, but they have objected to our request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Laura M. LeStrade', written in a cursive style.

Laura M. LeStrade



Honorable Marian W. Payson
June 1, 2023
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cc: Honorable Elizabeth A. Wolford (via email)
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Attorneys for Plaintiff

The application to excuse Mr. Chess's personal appearance is denied; the application to excuse the personal appearances of the individual defendants is granted. SO ORDERED.

Marian W. Payson

Marian W. Payson
United States Magistrate Judge
June 2, 2023